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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 9—SEPARATIONS AND DEMOTIONS

REEMPLOYMENT

Effective upon publication in the FEDERAL REGISTER, § 9.106 is amended to read as follows:

§ 9.106 *Effect of removal on future employment.* When an employee has been removed on charges, the Commission may receive the sworn statement of such employee, setting forth fully and in detail the facts surrounding his removal, may within its discretion make investigation to determine his eligibility for reinstatement insofar as suitability and fitness are concerned, and will after such investigation advise such employee whether the Commission has as a result of the investigation found him to be suitable for reinstatement in the Government service. No case will be considered under this provision unless submitted to the Commission within six months from the date of removal. (R. S. 1753; sec. 2, 22 Stat. 403, 50 Stat. 533; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 47-9399; Filed, Oct. 20, 1947; 8:47 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration, Department of Agriculture

Subchapter F—Banks for Cooperatives

[Farm Credit Administration Order 463]

PART 70—LOAN INTEREST RATES AND SECURITY

INCREASED INTEREST RATES

Section 70.90–56 is added and §§ 70.90, 70.90–50, 70.90–51, 70.90–52, and 70.90–55 (12 F. R. 2729, 3477, 4447, 5809) of Title 6 of the Code of Federal Regulations are hereby amended to read as follows:

§ 70.90 *Interest rate on continental loans for financing operations.* Except as provided in this section with respect to the Berkeley Bank for Cooperatives, the Columbia Bank for Cooperatives, and the St. Louis Bank for Cooperatives, the rate of interest on all loans, other than upon the security of commodities, made on and after February 24, 1939, by any district bank for cooperatives or from the Revolving Fund authorized by the Agricultural Marketing Act (sec. 7, 46 Stat. 14; 12 U. S. C. 1141e), as amended, for the purposes specified in section 7 (a) (1) of that act, shall be 2½ per centum per annum. The rate of interest on all such loans made on and after September 15, 1947, by the Berkeley Bank for Cooperatives and by the Columbia Bank for Cooperatives, and on and after December 1, 1947, by the St. Louis Bank for Cooperatives shall be 2¾ per centum per annum.

§ 70.90–50 *Interest rate on continental commodity loans.* Except as specified in § 70.90–51, and except as provided in this section with respect to the Berkeley Bank for Cooperatives, the Columbia Bank for Cooperatives, and the St. Louis Bank for Cooperatives, the rate of interest on all loans made upon the security of commodities on and after February 24, 1939, by any district bank for cooperatives or from the Revolving Fund authorized by the Agricultural Marketing Act (sec. 7, 46 Stat. 14; 12 U. S. C. 1141e), as amended, for the purposes specified in section 7 (a) (1) of that act, shall be 1½ per centum per annum. The rate of interest on all such loans made on and after March 1, 1947, by the Berkeley Bank for Cooperatives, and on and after September 15, 1947, by the Columbia Bank for Cooperatives, and on and after December 1, 1947, by the St. Louis Bank for Cooperatives shall be 1¾ per centum per annum.

§ 70.90–51 *Interest rate on continental loans and loans made in Puerto Rico secured by Commodity Credit Corporation loan documents.* Except as provided in this section with respect to the Berkeley Bank for Cooperatives, the Columbia Bank for Cooperatives, the St. Louis Bank for Cooperatives, and with respect to such loans made in Puerto Rico by the Baltimore Bank for Cooperatives, the rate of interest on loans made on and after June 30, 1947, by any district bank for cooperatives, upon the security of approved Commodity Credit Corporation loan documents, shall be 1½

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

CODIFICATION GUIDE—Con.

per centum per annum. The rate of interest on all such loans made on and after September 15, 1947, by the Berkeley Bank for Cooperatives and by the Columbia Bank for Cooperatives, and on and after December 1, 1947, by the St. Louis Bank for Cooperatives shall be 1¾ per centum per annum. The rate of interest on such loans made on and after October 15, 1947, in Puerto Rico by the Baltimore Bank for Cooperatives shall be 2 per centum per annum.

§ 70.90–52 *Interest rate on continental facility loans.* On and after October 1, 1947, the interest rate on all facility loans made in the continental United States by the district banks for cooperatives shall be 4 per centum per annum.

§ 70.90–55 *Interest rate on facility loans in Puerto Rico.* On and after October 1, 1947, the interest rate on all facility loans made in Puerto Rico by the Baltimore Bank for Cooperatives shall be 4½ per centum per annum.

§ 70.90–56 *Interest rates on loans made by the Central Bank for Cooperatives.* The rate of interest (a) for a continental loan made by the Central Bank for Cooperatives shall the same as the prevailing rate charged for a similar type loan by the district bank for cooperatives of the farm credit district in which the cooperative association borrowing from the Central Bank for Cooperatives has its principal place of business; and (b) for a loan made in Puerto Rico by the Central Bank for Cooperatives shall be the same as the prevailing rate charged by the Baltimore Bank for Cooperatives on a similar type loan in Puerto Rico.

The citation of authority appearing in the FEDERAL REGISTER (12 F. R. 2729) for §§ 70.5 to 70.139, inclusive, of Title 6, is hereby changed to read as follows: Sec. 8, 46 Stat. 14, as amended; secs. 34, 38, 41, 48 Stat. 262, 264, as amended; 12 U. S. C. 1134c, 1134j, 1141f.

[SEAL] I. W. DUGGAN, *Governor*

October 15, 1947.

[F. R. Doc. 47-9409; Filed, Oct. 20, 1947; 8:56 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

Subchapter D—Warehouse Regulations

PART 102—GRAIN WAREHOUSES

TERMS DEFINED

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 Stat. 490; 7 U. S. C. 268) Title 7, Chapter 1, Subchapter D, Part 102 of the Code of Federal Regulations, is hereby amended:

1. By striking out paragraphs (e) (f) and (g) of § 102.2 *Terms defined* and substituting in lieu thereof the following:

(e) *Designated representative.* The Administrator.

(f) *Administrator* The Administrator, Production and Marketing Administration, or any officer or employee of that Administration to whom the Administrator has heretofore lawfully delegated, or to whom the Administrator may hereafter lawfully delegate the authority to act in his stead.

(g) *Administration.* The Production and Marketing Administration of the Department of Agriculture.

2. By striking out the words "Bureau" and "Chief of Bureau" wherever they appear in said part, and inserting in lieu thereof, the words, "Administration" and "Administrator," respectively.

Inasmuch as these amendments are of a formal nature and are being made merely to reflect organizational changes that already have been made, and notice of which has been published in the FEDERAL REGISTER, it is found that notice and public procedure on the amendments are unnecessary, and good cause is found for making the amendments effective less than 30 days after publication thereof in the FEDERAL REGISTER.

(39 Stat. 490; 7 U. S. C. 268)

These amendments shall become effective upon publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 15th day of October 1947.

[SEAL] CLINTON P. ANDERSON, *Secretary.*

[F. R. Doc. 47-9391; Filed, Oct. 20, 1947; 8:46 a. m.]

TITLE 31—MONEY AND FINANCE

Chapter I—Monetary Offices, Department of the Treasury

[1947 Department Circular 1]

PART 129—VALUES OF FOREIGN MONEYS

QUARTER BEGINNING OCTOBER 1, 1947

OCTOBER 1, 1947.

§ 129.10 *Calendar year 1947.* * * *

(d) *Quarter beginning October 1, 1947.* Pursuant to section 522, Title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning October 1, 1947, expressed in any such foreign monetary units: *Provided, however* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, Title IV, of the Tariff Act of 1930.

The value of foreign monetary units, as shown below in terms of United States money, is the ratio between the legal gold content of the foreign unit and the legal gold content of the United States dollar. It should be noted that this value, with respect to most countries, varies widely from the present exchange rates. Countries not having a legally defined gold monetary unit, or those for which current information is not available, are omitted.

COUNTRY	MONETARY UNIT	Value in terms of U. S. money	REMARKS
Argentina	Peso (gold)	$1.0035	Conversion of notes into gold suspended Dec. 16, 1929. Paper peso circulating medium.
Brazil	Cruzeiro	.0525	Decree law of Oct. 6, 1942, established the cruzeiro as the unit of currency, replacing the milreis. Conversion of notes into gold suspended Nov. 22, 1930.
Canada and Newfoundland	Dollar	1.0031	Redemption of notes into gold suspended. Export of gold prohibited except under license.
Colombia	Peso	.5714	Present gold content of .16424 grams of gold 9/10 fine established by law of Nov. 19, 1923, effective Nov. 30, 1923. Obligation to sell gold suspended Sept. 24, 1931.
Costa Rica	Colon	.1761	Parity of .15527 fine gram gold established by decree law effective Mar. 22, 1947.
Cuba	Peso	1.0000	Gold content of .4373 gram 9/10 fine established by Law No. 214 of May 22, 1934, and confirmed by Law No. 410 of Aug. 10, 1934.
Denmark	Krone	.1937	Conversion of notes into gold suspended Sept. 29, 1931.
Egypt	Pound (100 piasters)	8.0392	Conversion of notes into gold suspended Sept. 21, 1931.
Ethiopia	Dollar	.4025	New unit established by Proclamation of the Emperor on May 25, 1945, effective July 23, 1945.
Finland	Markka	.0400	Conversion of notes into gold suspended Oct. 12, 1931.
Great Britain	Pound sterling	8.2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Guatemala	Quetzal	1.0000	Decree No. 333 of Dec. 10, 1924, defined the monetary unit as 15 6/21 grams gold 9/10 fine. Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Hungary	Forint	.0362	New unit based on 13,210 forint per kilogram fine gold, effective July 1946.
Ireland	Pound	8.2397	Conversion of notes into gold suspended Sept. 21, 1931.
Nicaragua	Cordoba	1.0000	Embargo on gold exports Nov. 13, 1931.
Panama	Balboa	1.0000	U. S. money principal circulating medium.
Peru	Sol	.4749	Conversion of notes into gold suspended May 18, 1932; exchange control established Jan. 23, 1945.
Philippines	Peso	.5000	Act of Mar. 16, 1933; agreement between U. S. and Philippines concerning trade and related matters based on Philippine Trade Act of 1946.
Poland	Zloty	.1900	By Ordinance of the President dated Oct. 13, 1927. Exchange control established Apr. 27, 1933.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Sweden	Krona	.1937	Conversion of notes into gold suspended Sept. 29, 1931.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Socialist Republics	Ruble	.1851	On basis of 8.0367 rubles per gram of fine gold.
Uruguay	Peso	.5263	Present gold content of .857018 grams fine established by law of Jan. 18, 1938. Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931.
Venezuela	Bolivar	.3007	Exchange control established Dec. 12, 1936.

(Sec. 25, 28 Stat. 552; sec. 403, 42 Stat. 17; sec. 522, 42 Stat. 974; sec. 522, 46 Stat. 739; 31 U. S. C. 372)

[SEAL] E. H. FOLEY, Jr., *Acting Secretary of the Treasury.*

[F. R. Doc. 47-9305; Filed, Oct. 20, 1947; 9:00 a. m.]

PART 131—GENERAL LICENSES UNDER EXECUTIVE ORDER NO. 8389, APRIL 10, 1940, AS AMENDED, AND REGULATIONS ISSUED PURSUANT THERETO

PROPERTY CERTIFIED BY GOVERNMENTS OF SPECIFIED COUNTRIES

Correction

AUGUST 29, 1947.

In Federal Register Document No. 47-8062, appearing on page 5813 of the issue for Friday, August 29, 1947, paragraph (d) (2) of § 131.95, which appears as follows, was inadvertently omitted from the original document:

(2) The term "foreign country designated in the order" shall be deemed to include countries licensed by § 131.94 (General License No. 94)

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 20-8]

PART 20—PILOT CERTIFICATES

GLIDER FLIGHT TIME

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 10th day of October 1947.

Revision of existing regulations to permit the logging of glider flights in terms of hours and minutes as an alternate to the present standards, which is in terms of number of flights, is justified by the increasing use of airplane tow for the launching of such flights. The airplane tow method permits longer flights and greater resultant experience per flight than other launching methods, but it is also more expensive. Thus, the present standard which only takes account of the number of flights, regardless of total flight time, creates an undue economic burden on some persons attempting to gain the experience required for glider pilot ratings on flights launched by airplane tow, without increasing the desired safety standards. The purpose of this regulation is, therefore, to provide a more equitable system of logging glider flight time.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and full consideration has been given to all relevant matters presented.

Pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) 601 and 602 thereof, the Civil Aeronautics Board hereby amends Part 20 of the Civil Air Regulations (14 CFR, Part 20, as amended) effective November 10, 1947:

1. By amending § 20.25 (b) to read as follows:

§ 20.25 *Aeronautical experience.* * * * (b) *Glider* Applicant for a glider rating shall have had at least 100 glider flights or 10 hours of glider flight time including at least 50 glider flights. At least 25 flights must have included a 360° turn.

2. By amending § 20.35 (b) to read as follows:

§ 20.35 *Aeronautical experience.* * * * (b) *Glider* Applicant shall have had at least 250 glider flights, or 25 hours of glider flight time including at least 125 glider flights. At least 5 flights must have been made within 60 days preceding the date of application. Applicant also shall have had at least one hour of flight instruction in recovery from stalls and spins. An applicant who is the holder of a private or commercial rating for a powered aircraft who has had not less than 100 glider flights, or 10 hours of glider flight time including at least 50 glider flights, will be deemed to have met the requirements of this section.

(52 Stat. 984, 1007; 49 U. S. C. 425, 551)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9390; Filed, Oct. 20, 1947; 9:00 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 5397]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

E. S. ULLMANN-ALLIED CO., INC.

§ 3.6 (n) *Advertising falsely or misleadingly—Nature—Product:* § 3.96 (a) *Using misleading name—Goods—Nature.* In connection with the offering for sale, sale, and distribution of animal peltries in commerce, using the term "Seal", "Sealskin" or "Seal Skin" or any simulation thereof, to designate or describe peltries obtained from South American sea lions, unless such terms are immediately preceded by the words "South American Rock" prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., sec. 45b) [Cease and desist order, E. S. Ullmann-Allied Company, Inc., Docket 5397, Sept. 12, 1947]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1947.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and a stipulation of facts entered into between counsel for the Commission and counsel for respondent, which stipulation provided that, subject to the approval of the Commission, the facts therein set forth might be taken as the facts in this proceeding and in lieu of testimony in support of the complaint or in opposition thereto, and that the Commission might proceed upon the complaint and stipulation to make its report, stating its findings as to the facts (including inferences which it might draw from the stipulated facts) and its conclusion based thereon, and issue its order disposing of the proceeding without the presentation of oral argument or the filing of briefs, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, E. S. Ullmann-Allied Company, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of animal peltries in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the term "Seal" "Sealskin", or "Seal Skin" or any simulation thereof, to designate or describe peltries obtained from South American sea lions, unless such terms are immediately preceded by the words "South American Rock"

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 47-9386; Filed, Oct. 20, 1947; 9:00 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Commodity Exchange Authority

[17 CFR, Part 1]

REGULATIONS UNDER COMMODITY EXCHANGE ACT

NOTICE OF PROPOSED AMENDMENTS

Notice is hereby given, pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., section 1003), that the Secretary of Agriculture is considering amending, under authority contained in the Commodity Exchange Act (7 U. S. C. secs. 1-17a) §§ 1.21 and 1.32 of Title 17, Code of Federal Regulations.

1. It is proposed to amend § 1.21 by deleting the words "at the settling price as fixed by the clearing organization", after the word "closed" in the last sentence, so that the section, as amended, will read as follows:

§ 1.21 *Care of money and equities accruing to customer* All money received directly or indirectly by, and all money and equities accruing to, a futures commission merchant from any clearing organization of any contract market, or from any member thereof or from any member of a contract market, incident to or resulting from any trade or contract in commodity futures made by or through such futures commission mer-

chant in behalf of any customer shall be considered as accruing to such customer within the meaning of section 4d (2) of the Commodity Exchange Act. Such money and equities shall be treated and dealt with as belonging to such customer in accordance with the provisions of the act. Money and equities accruing in connection with customers' open trades or contracts need not be separately credited to individual customers' accounts but may be treated and dealt with as belonging undivided to all customers having open trades or contracts which if closed would result in a credit to such customers.

2. It is proposed to amend § 1.32 by deleting the second sentence, which provides: "Such computation shall be made as promptly as possible and in any event not later than the next succeeding business day." If so amended, the section will read as follows:

§ 1.32 *Segregated account; daily computation and permanent record.* The amount of money, securities, and property which must be in segregated account in order to comply with the requirements of section 4d (2) of the Commodity Exchange Act shall be computed by each futures commission merchant as of the close of the market each business day, based upon his accounting records. A permanent record of such computation shall be made and kept in readily accessible form, together with all supporting data.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed amendments shall file the same in duplicate with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than 5:30 p. m., e. s. t., on the 15th day after the publication of this notice in the FEDERAL REGISTER.

Issued this 15th day of October 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9392; Filed, Oct. 20, 1947; 8:46 a. m.]

Production and Marketing Administration

[7 CFR, Part 955]

GRAPEFRUIT GROWN IN ARIZONA, IMPERIAL COUNTY, CALIF., AND THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF SAN GORGONIO PASS

GENERAL NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO APPROVAL OF BUDGET OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1947–48 FISCAL PERIOD

Consideration is being given to the following proposals submitted by the Administrative Committee, established under Marketing Agreement No. 96, and Order No. 55 (7 CFR, Cum. Supp. 955.1 et seq.) regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of the San Gorgonio Pass, as the agency to administer the terms and provisions thereof: (1) that the Secretary of Agriculture find that expenses not to exceed $14,000 will be necessarily incurred during the fiscal period August 1, 1947, to July 31, 1948, for the maintenance and functioning of the committee established under the aforesaid marketing agreement and order, and (2) that the Secretary of Agriculture fix, as each handler's share of such expenses, the rate of assessment, which each handler shall pay during the aforesaid fiscal period in accordance with the aforesaid marketing agreement and order, at $0.01 per standard packed box of fruit (as such box is defined in the aforesaid agreement and order)

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this notice in the FEDERAL REGISTER. All documents shall be filed in quadruplicate.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 955.1 et seq.)

Issued this 15th day of October 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9393; Filed, Oct. 20, 1947; 8:46 a. m.]

[7 CFR, Part 977]

HANDLING OF MILK IN PADUCAH, KY. MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED MARKETING ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Supps., 900.1 et seq., 11 F. R. 7737; 12 F. R. 1159, 4904) notice is hereby given of the filing with the Hearing Clerk of a recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and to a proposed marketing order, regulating the handling of milk in the Paducah, Kentucky, milk marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 0308, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the 10th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreement and order were formulated, was called by the Production and Marketing Administration, United States Department of Agriculture, following receipt of a proposed marketing agreement and order filed by the Paducah Graded Milk Producers Association, Paducah, Kentucky. The public hearing was held at Paducah, Kentucky, June 16 to 20, 1947, both dates inclusive, pursuant to a notice issued on May 29, 1947 (12 F. R. 3423).

The material issues presented on the record were:

(a) Whether the handling of milk in the Paducah, Kentucky, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products;

(b) Whether marketing conditions justify the issuance of an order regulating the handling of milk in the Paducah, Kentucky, marketing area; and

(c) If issuance of such an order is justified, what its provisions should be.

The evidence on this issue involved the following:

(1) The content and scope of various definitions including among others: "marketing area," "producer," "handler," and "other source milk";

(2) The designation, powers, and duties of the market administrator;

(3) The reports to be required of handlers;

(4) The classification and allocation of milk;

(5) The determination and level of prices for the various classes of milk;

(6) The applicability of provisions of the order to producers who are also handlers, and to payments for excess milk or butterfat;

(7) The determination of the uniform price to be paid producers;

(8) The time and method of payment for producer milk;

(9) The expense of administration;

(10) Marketing service deductions; and

(11) Other administrative provisions common to all orders.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(a) The handling of milk in the Paducah, Kentucky, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products.

The production of milk is among the largest of agricultural enterprises and is followed in varying degree in every state. The total milk production of the United States is marketed through several channels: (1) Milk for consumption as fluid milk and fluid cream, which represents more than 50 percent of the total; (2) milk for conversion into and consumption as butter, cheese, condensed or evaporated milk, ice cream, powdered whole or skim milk, special baby foods, etc., and (3) milk or skim milk for use as animal feed or for conversion into products of industry such as casein.

Significant regional differences exist in the production of milk for various uses. There is a rather high degree of regional concentration of the factory production of butter, cheese, and evaporated milk. Outside the area of concentration, most of the milk is consumed as fluid milk or fluid cream or is made into butter on farms.

Manufactured dairy products, to a less extent cream, and to a lesser extent fluid milk, may be readily stored and transported. With respect to cream and manufactured products, the ease with which they may be stored and transported results in a free flow of those products between markets. Many of the consuming markets for these products are located far beyond the boundaries of the state in which the particular products are manufactured.

The motivating factor in the movement of dairy products between markets is the relative price of such products in such markets. The free flow of manufactured products between different markets in response to price changes results in a decidedly close correlation between the price of dairy products in different markets. Not only is there a close intermarket price relationship with regard to dairy products, but also the supplies of the raw materials, butterfat, and nonfat milk solids, are interchangeable between products, and as a result the prices received by producers for milk or butterfat, regardless of the use to be made of it, tend to be markedly interrelated.

The producer price interrelationships are due to the fact that farmers can and do shift their milk or butterfat from one outlet to another as price conditions warrant, thereby tending to keep the farm prices of milk and butterfat in any one of the several uses closely related to the farm prices of milk and butterfat in all other uses.

The close interrelationship of prices between milk for fluid distribution and milk for manufactured purposes indicates that the interchangeability of supplies of milk for fluid distribution and of milk for manufacturing purposes is such that prices of milk for fluid distribution in any given area are subject, in a considerable degree, to the same supply and demand forces on a regional and on a national scale, as are prices for milk for manufacturing uses.

There is one large market for dairy products as a whole, and this market is broken down into markets for the several products and into a large number of local submarkets for fluid milk and cream, one for each city, town, or village. This results from the fact that the fluid uses of milk and cream compete with manufacturing uses, and that supplies flowing into these local markets shift from one use to another whenever prices change relatively.

The close relationship between fluid milk and manufactured milk prices may be explained, in part, by the fact that it is impossible to forecast accurately the daily requirements of fluid milk in any milk market, so that some milk intended for fluid distribution finds its way into manufactured dairy products. In addition, producers will, over a period of time, shift their methods of disposal of milk in accordance with changing price relationships.

The prices received by producers for milk entering into manufacturing use are closely related to the United States average farm price for butterfat. Furthermore, the prices received by producers for milk used for fluid consumption are closely associated with the price received by producers for milk entering all other uses. About 42 to 44 percent of the milk produced for commercial disposition is produced to supply fluid milk markets. Because of the uncertainties of demand and supply associated with fluid milk markets, much of the milk produced for such outlets is manufactured into products.

The fluid milk price in any given market will influence the prices in other distant markets and the price of milk used in manufactured dairy products flowing across state lines. In periods of surplus production there is a greater incentive for destructive producer price competition. In an unstabilized market where returns to producers are not based upon proportionate sharing of the fluid milk sales under a classified price plan, there is a tendency, created by the pressure of producers to have a share of the higher priced or fluid market, for the market price to be reduced below the point justified by the existing supply and demand situation in the fluid market. With a declining price in the fluid market in such instances there results an adverse effect on the market of other manufactured products, which effect is spread through a series of price repercussions effecting a decline of prices at other outlets for milk in all its various uses, including other fluid milk. It does not matter that the initial movement in this direction occurs in a market receiving its total supply within a single state. A slump in the price of milk in any sizable market tends to encourage producers to transfer their milk to available facilities for manufactured milk products, which transfer results in an increased amount of dairy products being manufactured locally.

The Paducah fluid milk market is not "isolated" from other fluid milk markets or from the market for manufactured milk. Milk and milk products move into and out of the Paducah market without regard to state boundaries, and the milk produced for the Paducah market competes with milk and its products moving in the current of interstate commerce through manufacturing outlets and other fluid milk markets, as is evidenced by the following:

(1) The Paducah fluid milk market is geographically located so as to cause a substantial effect, burden, or obstruction upon milk used for manufacturing purposes and thus to affect interstate commerce in milk and its products. The City of Paducah is situated on the bank of the Ohio River and is served by a free highway bridge to the State of Illinois. In addition, it is in close proximity to the States of Tennessee and Missouri, and is an important center of distribution for a four-state area. Areas within Illinois, Missouri, Tennessee, and Kentucky with a population of more than 250,000 people lie within a 50-mile radius of Paducah. The adjacent Ohio and Tennessee rivers are navigable streams carrying extensive interstate commerce.

(2) Milk produced in the Paducah milkshed for consumption as fluid milk in the marketing area is produced in competition with milk produced for manufacturing plants from which various products are sold across state lines. The farms of producers delivering milk for fluid uses in Paducah are interspersed among those of other dairymen supplying milk for manufacturing purposes or cream for butter manufacturing. A large manufacturing plant drawing its supplies in part from the Paducah milkshed is located at Mayfield, Kentucky, 26 miles south of Paducah. Some dairy farmers supplying this plant are located within 5 miles of Paducah, and are intermingled with producers supplying the Paducah market.

The hearing record indicates shifting of producers between the Mayfield plant and the plants of Paducah handlers. In 1946 a daily truckload of milk supplying the Mayfield plant was solicited by Paducah handlers and was shifted to the Paducah market. This milk was later cut off from the Paducah market and returned to the Mayfield plant.

Furthermore, the principal handlers of fluid milk in Paducah are buying uninspected milk from dairy farmers in the milkshed. Such milk is used for manufacturing purposes, except during short supply seasons when it has been used for fluid sales on an emergency basis. Ungraded milk supplies are received by the largest handler in Paducah at a receiving station located at Fredonia, Kentucky (55 miles east of Paducah), in addition to similar supplies which are received at the Paducah plant direct from the farms. The volume of such uninspected milk purchased by handlers and its use in fluid form directly affects the market opportunities of producers attempting to supply the fluid demands of the Paducah market.

(3) Supplementary supplies of milk are purchased by Paducah handlers for fluid uses from sources which are in the current of interstate commerce. The record indicates that such supplies have been purchased in substantial quantities for several years. Such supplies are purchased from the Pet Milk Company plant located at Mayfield, Kentucky. During the year 1946, Paducah handlers purchased 898,662 pounds of milk from the Mayfield plant for fluid uses. The Mayfield plant receives about 50 percent of its total supply of milk from the State of Tennessee.

The dairy products manufactured by this plant consist of evaporated milk in hermetically sealed cans which is sold on a national basis as orders are received, and ice cream mix, of which some is sold in Paducah, Kentucky, and Memphis, Tennessee. Since each of the principal fluid milk handlers in Paducah also engages in the sale of ice cream or ice cream mix, it is evident that there is also direct competition between the milk of out-of-state origin received by the Pet Milk Company plant with milk of the Paducah market utilized in these products.

(4) The disposition of milk and milk products by Paducah handlers is in the

current of interstate commerce or burdens, obstructs, or affects interstate commerce in milk and its products.

The principal handlers of fluid milk in the Paducah market are the Midwest Dairy Products Company, a corporation with home office in Duquoin, Illinois, and the Miller Dairy Products Company, with home office in Metropolis, Illinois. Each of these concerns operate plants outside of the State of Kentucky. The record indicates transfers of milk and milk products from the Paducah plants to affiliated plants in the States of Tennessee, Missouri, and Illinois.

The record also discloses that bottled fluid milk and milk products are regularly sold by Paducah handlers to a marine supply and service store for resale to river transportation and barge companies engaged in interstate commerce on inland waterways. These dairy products are resold to and consumed by crews and passengers of the boat and barge lines. Special reports concerning the quality of the milk and milk products as furnished have been required of the Kentucky State Department of Health by the United States Public Health Service because of the interstate aspects of such transactions.

(b) Marketing conditions justify the issuance of a marketing agreement and order regulating the handling of milk in the Paducah, Kentucky, marketing area.

The hearing record indicates need for action which will provide a well-defined price plan for the Paducah, Kentucky market, and which will assure an orderly adjustment of prices based on sound economic considerations.

The need for order and stability in the Paducah market is apparent from the hearing record. The market currently lacks any price plan which will assure producers a dependable price over any period of time, or any stability on the market. Price ceilings and heavy demand during the war resulted in flat prices supplanting the base-surplus pricing plans in effect prior thereto by agreement between the Paducah Graded Milk Producers Association and the handlers. Under producer ceiling prices the normal bargaining functions between producers and handlers lapsed to a considerable degree because of the limited field available for such functions. Ownership of the principal fluid milk plants changed during this period and the new owners have not recognized the producers association as a bargaining agent for its membership. As a result pricing has been by unilateral action of handlers for the past year. Producers have not received sufficient information concerning marketing conditions to adequately protect their interests. They have been individually notified of price changes determined solely by the buyers, and check testing privileges and deductions for association expenses have been discontinued on action of the handlers. Under these circumstances the only arrangement in the market for pricing inspected milk is such flat price as the handlers may care to announce and no provisions exist to provide producers of inspected milk with any stable position in the market. Since handlers also purchase uninspected milk for supplementary fluid uses at lower prices than that paid for inspected milk, any decrease in the demands for fluid sales immediately brings pressure to lower the flat price for all inspected milk and to discontinue purchases from some inspected producers at the inspected price.

The history of the market indicates that the differential between the prices received for inspected milk by Paducah producers and those received by producers delivering ungraded milk to the Mayfield plant have varied from 10 cents to 65 cents per hundredweight during the period from 1944 through 1946. It is highly questionable that the extra costs involved in supplying inspected milk to the fluid milk market varied that much. It is true that during part of this time producer prices for fluid milk were under ceiling control while those for manufacturing milk were not; the resulting situation however makes it increasingly necessary that in the present adjustment period such satisfactory degree of stability in the differential between the price of fluid milk and that of milk for manufacturing be established as will adequately reflect the differences in cost of producing milk for these two uses. The action of the present handlers in failing to bargain with the Paducah Graded Milk Producers' Association with respect to prices and conditions of marketing for milk produced by members of the association has disrupted an historical arrangement of long standing. The association has been in existence since 1933, and according to the hearing record was consistently recognized by former handlers as a bargaining agent. Records of milk utilization were furnished regularly, even though pricing was not on a classified basis. Written contracts formerly in use had apparently been followed by verbal agreements concerning prices and sales plans, and the hearing record indicates that flat pricing was initiated upon verbal agreement between association officials and handlers when market demands during the war consistently exceed deliveries of inspected milk.

(c) From the evidence it is concluded that the proposed marketing agreement and the order, which is hereinafter set forth, and all the terms and conditions thereof, meets the needs of the Paducah market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the various provisions of the marketing agreement and order.

(1) *Definitions.* (i) The "marketing area" should be defined to include all territory within McCracken County, Kentucky.

Identical ordinances for McCracken County and for the City of Paducah administered by the McCracken County Health Department, a city-county unit, regulate the quality of milk in all of McCracken County including the City of Paducah. The City of Paducah does not cover all the urban area of the county. Evidence presented at the hearing indicates there are no minor civil divisions other than the Paducah city limits which would provide clearly defined boundaries if the marketing area were to be limited to a portion of the county.

(ii) "Producer" should be defined so as to include only dairy farmers who produce milk permitted by the applicable health authorities to be sold as Grade "A" bottled milk in the marketing area: *Provided,* Such milk is received at a milk plant from which milk or cream in bottled form is disposed of in the marketing area or at a so-called receiving station (pool plants), or is diverted by a handler for his account to a milk plant from which no milk or cream is disposed of in the marketing area.

The dairy farmers normally supplying manufacturing plants or milk distributing plants with milk not meeting standards necessary for Grade "A" milk should not be defined as producers, as to do so would defeat a primary purpose of the order, which is to provide a higher price for inspected milk than that paid for uninspected milk. Such supplies are purchased by handlers for manufacturing purposes, except when shortages have necessitated bottling of such milk under a label without grade designation.

The proposal to include as producers dairy farmers delivering uninspected milk to plants with fluid milk processing and disposition was withdrawn at the hearing and no evidence for its adoption was presented.

(iii) The terms "pool plant" should be defined to include "a milk plant from which milk or cream in bottled form is disposed of in the marketing area" or "a milk plant approved by the appropriate health authorities to furnish (other than under an emergency permit) milk, skim milk, or cream to a plant, from which milk or cream in bottled form is disposed of in the marketing area, for disposition as bottled Grade 'A' milk or cream in the marketing area." Under several provisions of the order it is necessary that certain milk plants be described so as to distinguish them from other milk plants. This definition of "pool plant" will serve this purpose more concisely than would the continued repetition of the many words used in the definition. Any milk manufacturing, processing, or bottling plant not qualified under such a definition is concluded to be a "nonpool plant."

(iv) "Handler" should be defined so as to include the operator of a pool plant, and a cooperative association with respect only to milk of its producer-members which it diverts for its account to a nonpool plant. A definition of a handler is necessary in order to specify what type of processors or distributors are to be subject to regulation. Only operators of plants approved by the health authorities may process and distribute milk for fluid consumption in the marketing area.

A cooperative association of producers is included, though they do not operate a bottling plant, so that in the event any handler receives producer milk in excess of his fluid requirements the association may divert such excess milk to another plant where it may be used in a higher use classification than that in which the first handler might otherwise use it, or in the event no use can be found for such milk in the Paducah market the association may divert such milk to other outlets. This is necessary in order to pro-

mote the efficient utilization of producer milk.

(v) The terms "other source milk" should be defined to include all milk, skim milk, cream, and any milk product received at a pool plant; except that received from producers, handlers (other than producer-handlers) and any nonfluid milk product received and disposed of in the same form.

This definition would include milk and milk products received at a pool plant under an emergency permit issued by the appropriate health authorities for the sale of Class I milk within the marketing area. Since milk or cream permitted to be sold in the marketing area on an emergency basis is not produced by "producers," no useful purpose would be served by designating it apart from "other source milk."

Milk and milk products received at a pool plant from producer-handlers are included in the definitions of other source milk since such milk and milk products are not subject to the pricing provisions of the proposed marketing agreement and order.

Nonfluid milk products received and disposed of in the same form are not included in other source milk because such products would be classified as Class II milk and then deducted from the same class through the allocation provisions.

(vi) The terms "act," "person," "Secretary," "market administrator," "producer-handler," "delivery period," and "Department of Agriculture" should be defined to shorten the language in subsequent sections of the order. These terms are common to Federal milk marketing orders issued pursuant to the act. No controversy developed at the hearing regarding such terms.

(2) A section should be included in the order outlining the designation, powers, and duties of the market administrator.

The Agricultural Marketing Agreement Act of 1937, as amended, requires that marketing agreements or orders thereunder provide for selection, by the Secretary, of an agency for the administration thereof. In common with all other milk marketing orders the proposed order provides that this agency be a person selected by the Secretary. The act also specifies the powers of the agency which are those included in the proposed order, namely (a) to administer terms and provisions; (b) to make rules and regulations, (c) to receive, investigate and report complaints of violations; and (d) to recommend amendments.

The duties specified in the proposed order are those required for proper administration thereof. Since moneys of handlers and producers and those necessary for administration of the order are entrusted to him, it is proper that acceptable bond should be furnished by him and such employees as handle funds. It is necessary that auditors, and clerical help be employed for the administration of the order, and that the records of transactions under the order be properly kept and made available to the Secretary.

It is further provided that the market administrator shall audit the records of all handlers and verify the accuracy of reports and payments required by the order. This provision assures equity to handlers in the cost of their milk and assures producers that they will receive the minimum prices specified in the order.

It is specified that the market administrator shall publicly announce the specified class prices and the handler butterfat differential on or before the 6th day following the end of each delivery period. This should provide a reasonable time for him to determine such prices. He is also required to announce the uniform price to producers on or before the 10th day following the end of the delivery period. Since another provision of the order requires handlers to report receipts and utilization of milk which are used in computing the uniform price by the 6th day, the 4 day interval is considered a reasonable period for this computation.

Other duties specified, which are considered important in orderly administration, are (1) to publicly post the names of persons delinquent in submitting reports or making payments, as a protection to others under regulation; (2) to provide cooperative associations upon request with a report of the percentage of the milk delivered by their producer members which was used in each class by each handler and (3) to prepare and make available for the benefit of producers, consumers, and handlers general statistics and information concerning the operation of the order.

The provision requiring the market administrator to furnish the cooperative association with a report of the utilization of milk delivered by members of such association each month will enable such association to better supply handlers needing milk for higher priced uses. The record indicates the association has had difficulty in obtaining sufficient information to perform efficient marketing operations. The information contained in this report together with the provision providing for transfers or diversions of producer milk by the cooperative association will tend to create more efficient utilization of producer milk.

In the performance of the duties of the market administrator, it was proposed by the handlers that the market administrator be prohibited from employing any employee, or member of the family of a handler, producer, or a member of the cooperative association. This proposal should not be adopted, since it is the responsibility of the market administrator to administer the terms and provisions of the order in an impartial manner. Furthermore, it would be impractical to restrict the market administrator in the employment of competent personnel.

(3) A section should be included in the order requiring handlers to submit reports and to keep adequate records of receipts and utilization of milk and milk products which will enable the market administrator to verify payments to producers.

It is necessary that handlers report to the market administrator their receipts of milk and its resulting utilization. From this information, subject to later verification, the market administrator computes the uniform price to be paid to producers. The proposed order specifies that reports of receipts and utilization shall be made on or before the 6th day after the end of the month, which should provide the necessary time for handlers to summarize such items for the preceding calendar month.

A separate report of Class I sales sold outside the marketing area is included in the proposed order. At the request of handlers, this report excludes Class I milk sold from delivery routes serving stops both within and without the marketing area. Testimony indicates a considerable volume of regular sales outside the area by such routes. No useful purpose could be served by requiring such sales to be reported separately from those within the area, and considerable clerical burden could be placed on handlers by such a requirement.

Handlers are also required to report separately by the 6th day after the end of each month the name and address of each producer who either starts or stops delivery of milk to the handler. This provision will enable the market administrator to know promptly the producers for whom he is responsible for furnishing marketing services.

The handler is also required to submit by the 20th day after the end of each month his producer payroll showing quantities, butterfat tests, and net payment to each producer with the price, deductions, and charges involved. This report is required as a showing of the handler's fulfillment of his obligation under the order to pay at least the uniform prices announced.

(4) *Classification of milk.* (i) The classification of milk should be as follows: Class I milk should include all milk, skim milk, and cream disposed of in fluid form as milk, buttermilk, milk drinks (whether plain or flavored), and cream; and all milk, skim milk, and cream not specifically accounted for as Class II milk. Class II milk should include all milk, skim milk, and cream accounted for (i) as used to produce a product other than those specified in Class I milk, (ii) as actual plant shrinkage of milk received from producers, but not to exceed two percent of the receipts of milk from producers, and (iii) as actual plant shrinkage of other source milk received.

The proposed classification follows the historical pattern of the Paducah market. The products included in Class I milk are those subject to the grading requirements of the city-county health ordinances, which require these products to be made from approved milk in order to be sold under a "Grade A" label. The inclusion of fluid cream in Class I milk was proposed by producers upon the basis of historical precedent and the health requirements, and was not contested by handlers. Handlers did protest to some extent the inclusion of chocolate milk in Class I milk. Chocolate milk, buttermilk, and other milk drinks are disposed of in fluid form through the same retail and wholesale channels as bottled fluid milk and are used principally as a beverage. The physical characteristics, purposes, values, and uses of

these products are more nearly similar to those of fluid milk than to the products included in Class II milk.

An allowable shrinkage of one percent of the receipts of milk from producers was proposed by the cooperative association of producers. Handlers offered no evidence that such an allowance was inadequate other than the claim of excessive losses on chocolate milk resulting from the inability to salvage route returns. It is believed that two percent shrinkage allowance will encourage efficient plant operation and record keeping, and will provide sufficient allowance to cover all losses claimed by handlers on the hearing record. When producer milk and other source milk are utilized in the same plant it is not administratively feasible to segregate the actual plant shrinkage on producer milk. Consequently, when producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage allocated to producer milk and other source milk should be computed pro rata according to the proportions of the volumes of such milk, skim milk, and cream received from such sources to their total.

(ii) In establishing the classification of milk the responsibility should be placed upon the handler, who first receives such milk from producers, to account for such milk and to prove to the market administrator that such milk should not be classified as Class I milk. Any milk classified in one class should be reclassified if used or reused by such handler or by another handler in another class.

The only practical means of administering the classification provisions is to place the responsibility for correct classification on the handler who first receives the milk. Such handler is in the position to control the disposition of such milk and to maintain records necessary to prove the utilization reported to the market administrator.

In fluid milk markets producer milk is often stored in some form for later use in a class other than that in which it was originally classified. The interest of both producers and handlers will be protected by requiring adjustments in the payments made for such milk in accordance with its ultimate use.

(iii) Provisions should be included in the order covering the classification of milk, skim milk, and cream which is transferred or diverted from a pool plant to another pool plant or to a nonpool plant.

Such provisions covering transfers and diversions are considered necessary in order that classification of receipts of the handler, who is the first receiver, may be made without delay. In the case of transfers or diversions to a pool plant of another handler who also receives other source milk at such a pool plant, the other source milk must be eliminated from the computed class volumes through the allocation provisions before the final classification of the transferred or diverted milk can be ascertained. This is considered necessary for the protection and proper classification of producer milk, and is in accord with the method of allocating producer milk proposed under the allocation provisions. Transfers or diversions to a nonpool plant for Class II milk uses should be permitted only if the buyer maintains books and records which are made available if requested by the market administrator for the purpose of verifying the utilization of such milk, skim milk, or cream so transferred or diverted. Such procedure is in accord with the provisions placing the responsibility on the handler who is the first receiver for proper and correct classification of milk. In the event any milk, skim milk, or cream is so transferred or diverted without sufficient proof of utilization, such milk, skim milk, or cream should be classified as Class I milk.

(iv) The volume of Class I milk and Class II milk disposed of by each handler should be computed on the basis of the actual weight of the products disposed of as Class I milk and the actual weight of milk, skim milk, and cream used to produce products disposed of as Class II milk.

The producers proposed to compute the volume of Class I milk on the basis of the actual weight of milk, buttermilk, and milk drinks disposed of, plus the four percent milk equivalent of the butterfat disposed of as fluid cream. The volume of Class II milk under this proposal would have been the four percent milk equivalent of the butterfat used to produce Class II milk products. This method would result in considerable inflation in volume. In order to reconcile this inflated volume to actual receipts, it was proposed that an adjustment be made in the volume of Class II milk. It is evident, however, that much of the inflation would occur in Class I milk under this system of computation, since the proposed classification placed fluid cream in Class I milk.

The actual weight basis in the proposed order will not result in such inflation of volumes. The resulting simplicity is believed to be of special value in the Paducah market. The exhibits presented at the hearing show that a basis similar to the one proposed herein was used in the past in arriving at Class I milk volumes.

(v) In the allocation of classified milk and milk products, producer milk should not be displaced by other source milk.

Since producer milk is frequently intermingled with other source milk in pool plants, it is necessary to provide for classification of all milk received after which the producer milk may be allocated to the proper class. The allowable plant shrinkage of milk received from producers should be allocated to Class II milk, since such milk is not available for use in Class I milk. Receipts of other source milk should be allocated to the lowest priced available usage in order that producers may receive the benefits of the higher priced class. This conforms with the evidence on the record and the position taken by the health authorities that other source milk should not be used for bottling purposes when producer milk is available. Milk received from another handler will be charged to the handler who first received such milk; therefore, it should be eliminated from the class usage of the transferee handler.

(5) *Class prices.* (i) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used the open market prices of butter and nonfat dry milk solids, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

It is concluded that the basic formula price to be used in establishing the price for Class I milk of 4.0 percent butterfat content should be the highest of the following: The "paying" prices of 18 condenseries, located in Wisconsin and Michigan, for milk of 3.5 percent butterfat content adjusted by a butterfat differential; a formula price based upon the open market prices of butter and nonfat dry milk solids; or the "paying" prices of a local condensery.

By use of this basic formula price the price for Class I milk will vary with the general level of manufacturing milk prices. The items included in the formulas are those proposed by the producers with two exceptions. One additional nearby manufacturing plant was proposed to be averaged with the price paid by the local condensery included in the proposed order. The products produced at this plant were not clearly established on the record, and a possibility exists that some fluid milk is distributed from it, which might cause the prices paid by such plant to incorrectly reflect manufacturing uses. The local condensery handles a much larger volume of milk and is located between Paducah and the other plant, thus affecting much more directly the market for manufacturing milk in the Paducah area. Prices paid by the condensery have been posted regularly and should be available to the market administrator.

The producers proposed two methods of adjusting the price paid by the 18 condenseries for milk of 3.5 percent butterfat content to milk of 4.0 percent butterfat content; namely, the addition of the value of one-half of a pound of butter plus 20 percent, or the "direct ratio" method. It is believed that such price should be adjusted by the former method which represents the manufacturing value of one-half pound of butterfat.

The prices paid by the 18 condenseries and the local condensery should be the f. o. b. plant prices without deductions for hauling or other charges to be paid by the farm shipper. Any premiums paid to such farm shipper should not be included in the basic price, since such

premiums have been considered in the class price differentials.

The "butter-nonfat dry milk solids" formula in the proposed order represents an alternate value of 100 pounds of milk for manufacturing uses. Such formula recognizes a minimum yield of 7 pounds of "spray powder" from 90 pounds of skim milk. The 5½ cents deduction from the price quotation of such milk powder represents a manufacturing allowance. In the event such prices for nonfat dry milk solids f. o. b. manufacturing plants are not published, provision is made to use such price quotations for nonfat dry milk solids delivered at Chicago. In this event, an additional allowance of 1 cent per pound of powder is allowed which represents the average spread between such price quotations. To the value computed for 90 pounds of skim milk is added the recognized manufacturing value of 10 pounds of 40 percent cream.

The consumption of milk in the Paducah market is at a relatively high level. General economic conditions and business activity in Paducah indicate a continued good demand for milk and milk products. The level of production of Grade A producer milk has been insufficient to meet the needs of Class I milk in the market. It has been necessary for handlers to supplement their supplies of producer milk with substantial quantities from other sources.

The cost of feeds, labor, supplies, and materials incurred by Paducah producers in the production of milk shows an upward trend during 1946–47. Farmers producing milk for fluid purposes must use feed, labor, supplies, and materials more extensively to maintain production at a more uniform level than is required of farmers producing milk for manufacturing purposes. Consequently, the increase in the prices which have taken place in these items affect the fluid milk producers more than dairy farmers supplying manufacturing plants. In addition, a substantial investment is required to provide facilities to meet the requirements for the production of fluid milk for the Paducah market. Furthermore, the day-to-day expenses of maintaining such equipment, cooling and caring for milk, and sterilizing and caring for equipment are substantially greater than those required for milk for manufacturing purposes.

To reflect these additional costs in the reduction of Grade A quality milk and to provide the necessary incentive for the production of a sufficient quantity of pure and wholesome milk for the marketing area, the price of milk used for fluid purposes (Class I milk) must be established at a higher level than the price of milk produced for manufacturing outlets. This should be accomplished by adding the following differentials to the basic formula price for the determination of the price per hundredweight for Class I milk: $1.05 for the months of August through December; 85 cents for the months of July, January, February, and March; and 65 cents for the months of April, May, and June. This will provide an average annual price for Class I milk of approximately 88 cents per hundredweight over the level of prices of milk for manufacturing purposes.

The seasonal variation in the differentials proposed follows the monthly pattern proposed in the notice of hearing, which producers and handlers agree represent the seasonal pattern with respect to the cost of producing milk. Such a seasonal variation in the Class I price differential is considered necessary to encourage production more nearly in line with demands for Class I milk. The use of Class I milk has been relatively uniform throughout the year, while the receipts of milk from producers have varied greatly between the seasons of the year. The variation in receipts of producer milk between the spring season and the fall season has become progressively wider in recent years. To reverse this trend will require some assurance that fall and winter prices will be substantially higher than for the spring season. Normally the level of the basic formula price will be from 20 to 40 cents higher during the fall months than during the spring months. Also producers will receive some benefits in the blend price during the fall and winter months because a greater percentage of their milk will be used in Class I milk. It is estimated that these factors with the differentials proposed herein should result in a seasonal variation of approximately 80–95 cents in the blend prices paid to producers.

The price for Class II milk should be the higher of the "paying" price of the Pet Milk Company, Mayfield, Kentucky, and the "butter-nonfat dry milk solids" formula price. As stated previously, such formula contains a skim milk value based upon the open market price of "spray powder." The record indicates that spray powder is manufactured in the milkshed. The milk products included in Class II milk need not be made from graded milk. Hence, the producer milk going into these uses must compete with ungraded milk.

It is estimated that a blend price of $4.99 per hundredweight for milk of 4.0 percent butterfat content would have resulted had the formulas and prices proposed herein been in effect during the 12 months ending May 31, 1947.

The estimated blend prices referred to above compare with the prevailing prices in the market as follows: The average price (flat price) paid to producers for all milk of 4.0 percent butterfat content during the 12 month period preceding June, 1947, was $4.456 per hundredweight. The price paid during the month of May, 1947, was $3.90.

The pricing of milk on the basis of milk containing 4.0 percent butterfat follows the custom of the market and was not an issue on the hearing record. For milk received by a handler from producers containing more or less than 4.0 percent of butterfat the cost of milk to such handler should be adjusted by a butterfat differential based on 120 percent of the wholesale value of 92-score butter at Chicago. Such differential is in line with the recognized manufacturing value of butterfat.

(6) *Application of provisions.* (i) Handlers who distribute only milk of their own production (producer-handlers) should not be required to comply with the classification, pricing, and payment provisions of this order.

Producer-handlers are not a large factor in the Paducah market. Milk delivered by producer-handlers to handlers is defined as other source milk, thus preventing their surplus production from affecting the price of milk to regular producers. Producer-handlers are exempt from all responsibilities under the order except that such persons are required to make reports to the market administrator at such time and in such manner as the market administrator deems necessary.

(ii) In the computation of the value of producer milk, provision should be made for the inclusion of the value of milk or butterfat classified in excess of reported receipts from producers, handlers, and other sources. Similar provisions are common to orders issued pursuant to the act and are necessary to cover discrepancies in the weighing and testing of milk received from producers. For any excess volume of milk or butterfat, the value should be computed by multiplying such volume by the class price, applicable to the class in which such volume was used, adjusted by the handler butterfat differential for the computed butterfat content of such excess above or below 4.0 percent. In the event there is no excess in the volume of computed sales over receipts, but a handler has disposed of butterfat in excess of his receipts of butterfat, the value to be added should be computed by multiplying the pounds of such excess butterfat by the value of butterfat determined pursuant to the handler butterfat differential. This procedure conforms with the principle of computing and pricing the volume of milk in each class on an actual weight basis.

(7) *Uniform price.* Provision should be made for a market-wide type of pool in order that all producers delivering milk to handlers may receive a uniform price for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered.

This method of paying producers will require the establishment of a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sums paid by each handler shall equal the value of the milk received by him at the prices fixed in the proposed order.

This system was proposed and supported by producers at the hearing. Handlers did not contest the equity of the proposal, and the hearing record indicates that historically the principal handlers in the market have paid uniform prices.

(8) *Payment for milk.* Although the uniform price is computed only once each month, provision should be made for payment to producers semi-monthly.

Historically producers in the Paducah market have been paid on a 15 day basis. In order that this practice may continue, it is concluded that an advance payment should be made to each producer on or before the last day of each month for

milk delivered by such producer during the first 15 days of the month. The advance payment should be made on the basis of the uniform price, for milk of 4.0 percent butterfat content, for the preceding delivery period, and should be deducted from the final payment to be made to such producer on or before the 15th day after the end of the delivery period for milk delivered during such delivery period. Such final payment should be made at the uniform price computed for the delivery period, in which such milk was received, adjusted by the producer butterfat differential. Since the producer butterfat differential does not affect the cost of milk to handlers and only concerns the distribution of money between individual producers, it is believed the differential as supported by producers should be adopted.

In order to provide proper protection to handlers and producers, provision is made for an advance payment to producers for the first month this order is in effect at the rate of the prevailing price paid producers for the preceding payment period, and, in the event any producer discontinues deliveries of milk after the 15th day of the month, the handler may reduce the advance payment by 40 percent.

All dates covering reports of handlers, computation and announcement of the uniform price, and payments to and out of the producer-settlement fund have been established to enable handlers to make final payment to producers on the 15th day after the end of the delivery period. A reasonably adequate time is allowed handlers and the market administrator to comply with these provisions.

The market administrator should retain an amount of money (not more than 5 cents nor less than 4 cents per hundredweight) in the producer-settlement fund each month to cover adjustment of errors made in payments for milk. In the event the balance in the producer-settlement fund is insufficient to make all payments due handlers, the market administrator may reduce uniformly such payments to handlers, and such handlers may reduce their payments to producers accordingly. Provision is made for the payment of such money when the necessary funds are available.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payments due from such handler. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports, or to a handler who owes money to such fund but is financially unable to make full payment of all of his debts.

All payments made direct to producers or through the producer-settlement fund should be adjusted for errors made in such payments for the preceding delivery periods.

(9) *Expense of administration.* Each handler should be required to pay to the market administrator, as such handler's pro rata share of the expenses necessarily incurred by the market administrator, 5 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, on all receipts of producer milk and other source milk at a pool plant. Each cooperative association which is a handler should pay such expense on only that producer milk caused to be delivered by it to nonpool plants.

The market administrator is required to verify the disposition of all milk received, whether producer milk or other source milk, and other source milk should bear its pro rata share of the administrative cost. Substantial quantities of other source milk are received by handlers at pool plants in the market and such a method of proration will apportion the expenses of administration more equitably between handlers. In the event a lesser amount of money, resulting from the rate, proves to be sufficient for the administration of the order, provision is made to enable the Secretary to reduce the assessment accordingly.

(10) *Deductions for marketing services.* Provision should be made for deductions from payments to producers for marketing services to be provided by the market administrator and by qualified cooperative associations.

The act specifically provides for market information to producers and for verification of weights, sampling, and testing of milk of producers, with appropriate deductions therefor from payments to producers. Specific provision is also made in the act covering marketing service deductions to be paid to qualified cooperative marketing associations who are determined by the Secretary to be performing such services.

The hearing record shows that checking of weights, and butterfat tests, and the lack of accurate market information has been a source of conflict between producers and handlers in the Paducah market. Producers' interest in the market require that they be provided with these services.

A deduction from payments to producers for whom such services are not being performed by a cooperative association, qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," should be made by handlers at the rate of 5 cents per hundredweight or such lesser amount as may be determined by the Secretary. Such deductions should be paid to the market administrator, on or before the 20th day after the end of each month, to be used in defraying the necessary expenses incurred by the market administrator, or an agent engaged by, and responsible to, him in the performance of marketing services to such producers.

In the case of producers for whom a qualified cooperative association is performing, as determined by the Secretary, such marketing services, each handler should make such deductions as are authorized by such producers and, on or before the 20th day after the end of each month, pay over such deductions to the association rendering such services.

(11) *Administrative provisions.* The marketing agreement and order should provide for other general administrative provisions which are common to all orders and which are necessary for the proper and efficient administration of the order. Among others, such provisions should provide for (i) the designation of an agent to act as the representative of the Secretary in connection with any of the provisions of the order, (ii) the effective time such provisions shall be in force, (iii) a plan for liquidation of the order in the event of its suspension or termination, and (iv) the separability of the application of provisions in the event any provision of the order is held invalid. No objections were raised by either handlers or producers with regard to these provisions.

(d) The proposed marketing order will regulate the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial or commercial activity specified in the proposed marketing agreement upon which the hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of the Paducah Graded Milk Producers Association and various handlers who would be subject to the proposed marketing argeement and order. Every point covered in the briefs was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such proposed findings and conclusions are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this recommended decision because the regulatory provisions thereof would be the same as those contained in the recommended order.

§ 977.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.)

(b) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture, or such other Federal agency authorized to perform the price reporting functions specified herein.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Paducah, Kentucky, marketing area," hereinafter called the "marketing area," means all the territory within McCracken County, Kentucky.

(f) "Pool plant" means: (1) A milk plant from which milk or cream in bottled form is disposed of in the marketing area; or (2) A milk plant approved by the appropriate health authorities to furnish (other than under an emergency

permit) milk, skim milk, or cream to a plant described in subparagraph (1) of this paragraph for disposition as bottled Grade "A" milk or cream in the marketing area.

(g) "Nonpool plant" means any milk manufacturing, processing, or bottling plant other than a pool plant.

(h) "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is permitted by the applicable health authorities to be sold as Grade "A" bottled milk in the marketing area, and which is:

(1) Received at a pool plant; or

(2) Diverted by a handler from a pool plant to a nonpool plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(i) "Handler" means:

(1) Any person who, on his own behalf or on behalf of others, operates a pool plant; and

(2) Any cooperative association of producers, as defined in § 977.10 (b) with respect to milk of producers diverted for the account of such association to any milk distributing or milk manufacturing plant.

(j) "Producer-handler" means any person who is both a producer and a handler but who receives no milk from other producers.

(k) "Other source milk" means all milk, skim milk, cream, or any milk product received at a pool plant, except:

(1) That received from producers;

(2) That received from a handler, other than a producer-handler; and

(3) Any nonfluid milk product received and disposed of in the same form.

(l) "Delivery period" means the calendar month, or the total portion thereof, during which the provisions herein are in effect.

(m) "Market administrator" means the person designated pursuant to § 977.2 as the agency for the administration hereof.

§ 977.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To make rules and regulations to effectuate its terms and provisions;

(3) To receive, investigate, and report to the Secretary complaints of violations; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 977.9: (i) The cost of his bond and of the bonds of his employees; (ii) His own compensation; and (iii) All other expenses, except those incurred under § 977.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the day upon which he is required to perform such acts, has not made (i) reports pursuant to § 977.3 (a) or (ii) payments pursuant to § 977.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(8) Upon request, report, on or before the 25th day after the end of each delivery period, to each cooperative association described in § 977.10 (b) the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;

(9) Verify all reports and payments required to be made by handlers pursuant to the provisions of this order;

(10) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof;

(11) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(i) On or before the 6th day after the end of such delivery period, the minimum class prices and the butterfat differential to handlers; and

(ii) On or before the 10th day after the end of such delivery period, the uniform price and the butterfat differential to producers.

§ 977.3 *Reports, records, and facilities*—(a) *Submission of reports.* Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 6th day after the end of each delivery period:

(i) The receipts, utilization, and butterfat tests of all milk, skim milk, cream, and milk products required to be classified pursuant to § 977.4 (a)

(ii) A statement of the disposition of Class I milk outside the marketing area (other than from delivery routes serving stops both within and without the marketing area)

(iii) The name and address of each producer from whom milk is received for the first time, and the date on which such milk was first received; and

(iv) The name and address of each producer who discontinues deliveries of milk and the date on which the milk of such producer was last received.

(2) Within 20 days after the end of each delivery period, his producer payroll, which shall show for such delivery period:

(i) Each producer's total delivery of milk with the average butterfat test thereof; and

(ii) The net amount of the payment made to such producer with the price, deductions, and charges involved.

(b) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of milk and milk products and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to: (1) Verify the receipts and disposition of all milk, and milk products, required to be reported pursuant to this section, and, in case of errors or omissions, ascertain the correct figures; (2) Weigh, sample, and test for butterfat content all milk and milk products handled; and (3) Verify payments to producers

§ 977.4 *Classification of milk*—(a) *Basis of classification.* The market administrator shall classify, on the basis of the classes set forth in paragraph (b) of this section and subject to the conditions of paragraphs (c), (d), and (e) of this section, all receipts, within the delivery period by a handler at a pool plant, of (1) milk from producers (including his own farm production), (2) milk, skim milk, cream, and milk products from other handlers, and (3) other source milk; and all milk of producers diverted by a cooperative association.

(b) *Classes of utilization.* The classes of utilization shall be as follows:

(1) Class I milk shall be all milk, skim milk, and cream disposed of in fluid form as milk, buttermilk, milk drinks (whether plain or flavored) and cream; and all milk, skim milk, and cream not specifically accounted for as Class II milk.

(2) Class II milk shall be all milk, skim milk, and cream accounted for (i) as used to produce a product other than those specified in Class I milk, (ii) as actual plant shrinkage of milk received from producers, but not to exceed 2 percent of the total receipts of such milk, and (iii) as actual plant shrinkage of other source milk: *Provided,* That if milk received

from producers is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage allocated to the milk received from producers shall not exceed its pro rata share computed on the basis of the proportion of the volumes received from the various sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All milk, skim milk, and cream received shall be Class I milk, unless the handler who first receives such milk, skim milk, or cream proves to the market administrator that such milk, skim milk, or cream should be classified otherwise.

(2) Any milk, skim milk, or cream classified in one class shall be reclassified if used or reused by such handler or by another handler in another class and the adjustments necessary to reflect the reclassified value of such milk, skim milk, or cream shall be made in the manner specified in § 977.8 (e) with respect to errors in payment.

(d) *Transfers of milk, skim milk, and cream.* (1) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a pool plant of another handler shall be Class I milk, unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided,* That milk, skim milk, or cream so assigned to Class II milk shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (e) (2) of this section, and any excess of milk, skim milk, or cream shall be assigned to Class I milk.

(2) Milk, skim milk, and cream disposed of, by transfer or diversion, by a handler from a pool plant to a nonpool plant shall be Class I milk, unless (i) the handler claims another class on the basis of utilization mutually indicated in writing to the market administrator by both the operator of the nonpool plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, and (ii) the operator of the nonpool plant maintains books and records showing the utilization of all milk and milk products at such plant which are made available if requested by the market administrator for the purpose of verification: *Provided,* That if upon inspection of his records such buyer's plant had not actually used an equivalent amount of milk, skim milk, and cream in such indicated use, the remaining pounds shall be classified as Class I milk.

(e) *Allocation of milk classified.* The amount remaining in each class after making the following computations shall be the amount in such class allocated to milk received from producers:

(1) Subtract from the total pounds in Class II milk the pounds of actual plant shrinkage of milk received from producers which does not exceed 2 percent of the total receipts of such milk;

(2) Subtract from the pounds remaining in each class, in series beginning with Class II milk, the total pounds of other source milk received;

(3) Subtract from the pounds remaining in each class the total pounds of milk, skim milk, and cream received from other handlers and assigned to such class pursuant to paragraph (d) of this section; and

(4) Add to the pounds remaining in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph; or if the pounds remaining in all classes exceeds the pounds of milk received from producers, subtract such excess from the pounds remaining in each class, in series beginning with Class II milk.

§ 977.5 *Minimum prices*—(a) *Class prices.* Each handler shall pay producers, at the time and in the manner set forth in § 977.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk, computed pursuant to § 977.4 (e)

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus the following amounts per hundredweight: $1.05 for the delivery periods of August, September, October, November, and December; $0.85 for the delivery periods of July, January, February, and March; and $0.65 for the delivery periods of April, May, and June.

(2) *Class II milk.* The price for Class II milk shall be the average of the basic (or field) prices reported to and ascertained by the market administrator to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, for milk of 4.0 percent butterfat content received during the delivery period by the Pet Milk Company at its manufacturing plant located at Mayfield, Kentucky, or the price computed pursuant to the following formula, whichever is the higher:

(i) Multiply by 4.0 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add 20 percent thereof; and

(iii) Add 3½ cents for each full one-half cent that the price of nonfat dry milk solids by spray process for human consumption is above 5½ cents per pound. For the purpose of this formula the price per pound of nonfat dry milk solids to be used shall be the average of the carlot prices by spray process for human consumption, f. o. b. manufacturing plants in the Chicago area, as published by the Department of Agriculture during the delivery period, including in such average the quotations published for any fractional part of the previous delivery period which were not published and available for such price determination for the previous delivery period. In the event the carlot prices for such milk solids, f. o. b. manufacturing plant, are not so published, the average of the carlot prices for such milk solids delivered at Chicago, as published by the Department of Agriculture, shall be used, and the following shall be used in lieu of the computation provided for herein: Add 3½ cents for each full one-half cent that the price of such nonfat dry milk solids delivered at Chicago is above 6½ cents per pound.

(b) *Basic formula price.* The basic formula price per hundredweight to be used in determining the price for Class I milk shall be the Class II price for the delivery period, or the price computed as follows, whichever is the higher:

To the average of the basic (or field) prices reported to have been paid, or to be paid, without deductions for hauling or other charges to be paid by the farm shipper, per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices are reported to the market administrator or to the Department of Agriculture by the companies listed below:

Companies and Location

Borden Co..
- Black Creek, Wis.
- Greenville, Wis.
- Mt. Pleasant, Mich.
- New London, Wis.
- Orfordville, Wis.

Carnation Co..
- Berlin, Wis.
- Jefferson, Wis.
- Chilton, Wis.
- Oconomowoc, Wis.
- Richland Center, Wis.
- Sparta, Mich.

Pet Milk Co..
- Belleville, Wis.
- Coopersville, Mich.
- Hudson, Mich.
- New Glarus, Wis.
- Wayland, Mich.

White House Milk Co..
- Manitowoc, Wis.
- West Bend, Wis.

add an amount computed by multiplying the butterfat differential, determined pursuant to § 977.3 (f) by 5.

(c) *Butterfat differential to handlers.* If any handler has received milk from producers during the delivery period containing more or less than 4.0 percent of butterfat, such handler shall add or deduct, per hundredweight of milk, for each one-tenth of 1 percent of butterfat above or below 4.0 percent, an amount computed as follows: multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 977.6 *Applicability of provisions*—(a) *Handlers who are also producers.* Sections 977.3, 977.4, 977.5, 977.7, 977.8, 977.9, and 977.10 hereof shall not apply to a producer-handler, except that such producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and shall permit the market administrator to verify such reports.

(b) *Payment for excess milk or butterfat.* In the event that a handler, after subtracting receipts of other source milk and receipts of milk, skim milk, and cream from other handlers, has disposed of milk or butterfat in excess of the milk or butterfat which, on the basis of his reports for the delivery period, has been credited to producers as having been received from them, such handler shall pay to producers through the producer set-

tlement fund the value of such milk or butterfat determined as follows:

(1) Multiply any such excess volume subtracted from any class pursuant to § 977.4 (e) (4) by the applicable class price, adjusted by the handler butterfat differential, for each one-tenth of one percent that the computed butterfat content of such excess varies from 4.0 percent.

(2) Multiply the pounds of any such excess butterfat, for which no excess was subtracted pursuant to § 977.4 (e) (4) by 10 times the handler butterfat differential.

§ 977.7 *Determination of uniform prices to prdoucers*—(a) *Computation of value for each handler.* For each delivery period, the market administrator shall compute the value of milk of producers received by each handler by multiplying the pounds in each class by the applicable class price adjusted by the handler butterfat differential, adding together the resulting class values, and adding to such sum the value of any excess milk or butterfat computed pursuant to § 977.6 (b)

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight of producer milk containing 4.0 percent of butterfat as follows:

(1) Combine into one total the values, computed pursuant to paragraph (a) of this section, for all handlers who made the reports prescribed by § 977.3 (a) for such delivery period, except those in default of payments required pursuant to § 977.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of all milk received from producers represented by the values included under subparagraph (1) of this paragraph is in excess of 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, the total value of the butterfat differential applicable pursuant to § 977.8 (f)

(3) Add an amount representing the cash balance in the producer-settlement ment fund;

(4) Divide the resulting amount by the total hundredweight of milk received from producers included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers.

§ 977.8 *Payments for milk*—(a) *Time and method of payment*—(1) *Partial payment.* On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than the applicable uniform price of the preceding delivery period, for the milk of such producer which was received by such handler during the first 15 days of the current delivery period: *Provided,* That during the first delivery period for which this order is in effect, such rate of payment shall be not less than the prevailing price paid to such producer for 4.0 percent milk for the preceding payment period: *And provided further* That such rate of payment to any producer who has discontinued delivery of milk, after the 15th day of the delivery period, may be reduced by not more than 40 percent.

(2) *Final payment.* On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight, subject to the following adjustments: (i) The producer butterfat differential, (ii) less payment made pursuant to subparagraph (1) of this paragraph, (iii) less marketing service deductions, (iv) less deductions authorized by the producer, and (v) any error in calculating payment to such producer for the past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain in a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the value of his milk, computed pursuant to § 977.7 (a) for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential.

(d) *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk, computed pursuant to § 977.7 (a) for such delivery period is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the delivery period by the uniform price adjusted by the producer butterfat differential. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustments of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* In making payments to each producer, pursuant to paragraph (a) of this section, each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of 1 percent of butterfat content above or below 4.0 percent in milk received from such producer, the amount as shown in the following schedule for the butter price range in which falls the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture, for the delivery period during which such milk was received:

Butter price range (cents)	Butterfat differential (cents)
17.499 or less	2
17.50–22.499	2½
22.50–27.499	3
27.50–32.499	3½
32.50–37.499	4
37.50–42.499	4½
42.50–47.499	5
47.50–52.499	5½
52.50–57.499	6
57.50–62.499	6½
62.50–67.499	7
67.50–72.499	7½
72.50–77.499	8
77.50–82.499	8½
82.50–87.499	9
87.50–92.499	9½
92.50 and over	10

§ 977.9 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 977.2 (c) (4), each handler shall pay to the market administrator, on or before the 20th day after the end of each delivery period, 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all receipts at a pool plant, during the delivery period, of milk from producers (including such handler's own production) and other source milk. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers caused to be delivered by it to nonpool plants.

§ 977.10 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 977.8 (a) with respect to milk received from each producer, shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe; and, on or before the 20th day after the end of such delivery period, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 977.8, as are authorized by such producers, and, on or before the 20th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 977.11 *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 977.12 *Suspension or termination.* The Secretary shall, whenever he finds that any or all provisions hereof, or any amendments hereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions hereof or any amendments hereto.

(b) *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order or any amendments thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator) such further acts shall be performed notwithstanding such suspension or termination.

(c) *Liquidation.* Upon the suspension or termination of the provisions hereof, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 977.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

§ 977.14 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 16th day of October 1947.

[SEAL] S. R. NEWELL,
Acting Assistant Administrator.

[F. R. Doc. 47-9400; Filed, Oct. 20, 1947; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Part 541]

DEFINITION OF CERTAIN TERMS

NOTICE OF HEARING ON PROPOSED AMENDMENTS

Notice of hearing on proposed amendments to Part 541 of regulations with respect to the definition of the terms "executive, administrative, professional, or local retailing capacity, or outside salesman" as they affect employees covered by provisions of Fair Labor Standards Act.

Whereas, section 13 (a) (1) of the Fair Labor Standards Act, as amended, provides that the provisions of section 6 and section 7 of the act shall not apply to any employee "employed in a bona fide executive, administrative, professional, or local retailing capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator)"; and

Whereas, the Administrator of the Wage and Hour Division, on October 15, 1940, issued Part 541 of Chapter V, Title 29, Code of Federal Regulations, as amended (5 F. R. 4077) entitled "Regulations Defining and Delimiting the Terms Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity, or in the Capacity of Outside Salesman" pursuant to section 13 (a) (1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060), and

Whereas, it appears advisable, in the light of the experience of the Divisions in the application of these regulations and because of changes in economic conditions which have taken place since their issuance, to consider amendments to the regulations which will more effectively carry out the purposes of the exemptions provided in section 13 (a) (1), and

Whereas, a petition has been filed by the United Electrical Radio & Machine Workers of America pursuant to § 541.6 of the regulations, for amendment of §§ 541.1, 541.2 and 541.3 of the regulations to require that an employee must be compensated for his services on a salary or fee basis at a rate of not less than $500 per month (exclusive of board, lodging and other facilities) in order to qualify as an executive, administrative, or professional employee;

Now, therefore, notice is hereby given of public hearing to be held beginning on Tuesday, December 2, 1947 at 10 A. M. in the Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets, N. W., Washington, D. C., before a representative to be designated by the Administrator, at which interested persons will be heard on the following questions:

1. What, if any, changes should be made in the provisions contained in §§ 541.1 (e) 541.2 (a) and 541.3 (b) of the regulations with respect to salary criteria for exemption as executive, administrative, and professional employees?

2. Should the following proposed amendments to Regulations Part 541 be adopted?

a. Amend § 541.1 (f) of the regulations to read as follows:

(f) Who does not devote more than 8 hours in the workweek to work which is not an integral part of the functions described in paragraphs (a) through (b) of this section: *Provided*, That this paragraph shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who is an officer and shareholder owning at least 20 percent of the outstanding shares of the enterprise in which he is employed.

b. Amend § 541.2 by deleting § 541.2 (b) (4) which reads:

(4) Who is engaged in transporting goods or passengers for hire and who performs, under only general supervision, responsible outside work of a specialized or technical nature requiring special training, experience, or knowledge, and whose duties require the exercise of discretion and independent judgment.

c. Amend § 541.2 (b) (2) to read as follows:

(2) Who performs under only general supervision, responsible office or nonmanual field work, directly related to management policies or general business operations, along specialized or technical lines requiring special training, experience, or knowledge, and which requires the exercise of discretion and independent judgment; or

d. Amend § 541.2 by adding a new paragraph (c) as follows:

(c) And who does not devote more than 8 hours in the workweek to work which is not an integral part of the functions described in paragraphs (b) (1) (b) (2) and b (3) of this section.

e. Amend § 541.3 (a) (4) to read as follows:

(4) Who does not devote more than 8 hours in the workweek to work which

is not an integral part of the functions described in paragraphs (a) (1) (2) (3) and 5 (i) or (ii) of this section.

f. Amend § 541.4 (b) to read as follows:

(b) Who does not devote more than 8 hours in the workweek to work which is not described in paragraphs (a) (1) or (a) (2) of this section.

g. Amend § 541.5 (a) (2) to read as follows:

(2) Obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer, and

h. Amend § 541.5 (b) to read as follows:

(b) Whose hours of work of a nature other than that described in paragraphs (a) (1) or (a) (2) of this section, do not exceed 8 hours in the workweek; provided that work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be included in computing the 8 hours.

3. What, if any, other amendments should be made in Regulations, Part 541?

Interested persons are invited to present evidence as to the need for revision or definition of any of the terms used in the regulations, particularly with respect to the following:

1. "Primary duty" as used in § 541.1 (a)
2. "A customarily recognized department or subdivision thereof" as used in § 541.1 (a)
3. "Sole charge" as used in § 541.1 (f)
4. "A physically separated branch establishment" as used in § 541.1 (f)
5. "Salary basis" and "salary or fee basis" as used in §§ 541.1 (e) 541.2 (a) and 541.3 (b)
6. "General business operations" as used in §§ 541.2 (b) (2) and 541.2 (b) (3)

All persons wishing to be be heard shall file with the Administrator, Wage and Hour Division, United States Department of Labor, Washington 25, D. C., not later than November 20, 1947, notice of intention to appear which shall contain the following information:

1. Name and address of the person appearing.
2. If such person is appearing in a representative capacity, the name and address of the persons or organizations he is representing.
3. The branch of industry in which he is interested.
4. The particular sections of the regulations or the proposed amendments on which he proposes to testify.
5. If he proposes to appear in support of any amendment not proposed in this notice, the general nature and purpose of such suggested amendment.
6. The approximate length of time requested for his presentation.

In the event that a large number of persons indicate a desire to be heard and it appears that the hearing will extend over a considerable period of time, persons scheduled to testify will be notified through the mails of the approximate date and time set aside for their appearance.

Written statements may be filed in lieu of personal appearances at any time before the date of the hearing.

Signed at Washington, D. C., this 16th day of October 1947.

WM. R. MCCOMB, *Administrator, Wage and Hour Division, United States Department of Labor.*

[F. R. Doc. 47-9400; Filed, Oct. 21, 1947; 8:45 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9946]

CHRISTINE RAUCH

In re: Estate of Christine Rauch, deceased. File No. 017-21578.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Barbara Link, Emilie Rieder, Helene Link, Martha Link, Erwin Link, Richard Link, Matthias Link, Frida Bachler, Barbara Esslinger, Rosina Jauch and Emilie Wossner, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Christine Rauch, deceased, is property payable or deliverable to or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Liberty Title and Trust Company, as Trustee in Partition, acting under the judicial supervision of the Orphans' Court of Philadelphia County, Pennsylvania;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 7, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON, *Assistant Attorney General, Director Office of Alien Property.*

[F. R. Doc. 47-9401; Filed, Oct. 20, 1947; 8:45 a. m.]

[Vesting Order 9949]

CARL WERMELSKIRCHEN

In re: Estate of Carl Wermelskirchen, deceased. File No. 017-22807.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Weller and Frau Margarete Weller, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country, (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of Carl Wermelskirchen, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country, (Germany)

3. That such property is in the process of administration by the Surrogate of Somerset County, as depositary, acting under the judicial supervision of the Somerset County Orphans' Court, State of New Jersey;

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used,

administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 7, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9402; Filed, Oct. 20, 1947; 8:46 a. m.]

[Vesting Order 9982]

JOSEPH STEINER

In re: Estate of Joseph Steiner, also known as Josef H. Steiner and Josef Steiner, deceased. File D-28-11912; E. T. sec. 16109.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emma Steiner, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the right of Emma Steiner under section 18 of the Decedent Estate Law of New York to file an election to take her share of the Estate of Joseph Steiner, also known as Josef H. Steiner and Josef Steiner, deceased, as in intestacy, and all other right, title, interest and claim of any kind or character whatsoever of said Emma Steiner in, to and against the Estate of Joseph Steiner, also known as Josef H. Steiner and Josef Steiner, deceased, is property or an interest therein owned or controlled by, payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by Adamo Ottavino, as Executor, acting under the judicial supervision of the Surrogate's Court, County of Queens, Jamaica, New York;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 9, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9405; Filed, Oct. 20, 1947; 8:47 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 1000381]

CALIFORNIA

NOTICE OF FILING OF PLATS OF SURVEY ACCEPTED SEPTEMBER 6, 1945

Correction

SEPTEMBER 30, 1947.

In F. R. Doc. 47-9036, appearing at page 6623 of the issue for Wednesday, October 8, 1947, the dates in lines five and six of paragraph (d) should read "February 11, 1948 to March 2, 1948, inclusive"

FEDERAL COMMUNICATIONS COMMISSION

KILO, GRAND FORKS, N. DAK.

NOTICE CONCERNING PROPOSED ASSIGNMENT OF LICENSE[1]

The Commission hereby gives notice that on October 3, 1947 there was filed with it an application (BAL-658) for its consent under section 310 (b) of the Communications Act to the proposed assignment of license of KILO from Dalton Le Masurier to Grand Forks Herald, Inc., Grand Forks, North Dakota. The proposal to assign the license arises out of a contract of September 11, 1947 pursuant to which the station, its properties and good will would be transferred to assignee for a total consideration of $180,000. Of this amount $5,000 has been deposited in escrow and a further sum of $25,000 in cash is to be paid by purchaser at the time of the transfer. A further sum of $25,000 is to be paid one year from the date of transfer and in addition $25,000 is to be paid upon the same date in each of the second, third, fourth, fifth and sixth years after the date of transfer. The deferred payments are to be evidenced either by contract or promissory notes of purchaser and are to bear interest at 4% per annum from the date of transfer. First party is to have the option to determine whether the obligations or notes are to include the privilege of prepayment. The transaction is to be closed at the end of the day on which approval is given by the Commission or some other date not beyond 30 days from approval. Further information as to the arrangements may be found with the application and associated papers which are on file at the offices of the Commission in Washington, D. C.

Pursuant to § 1.321 which sets out the procedure to be followed in such cases including the requirement for public notice concerning the filing of the application, the Commission was advised by applicant that starting on October 13, 1947 notice of the filing of the application would be inserted in a daily newspaper of general circulation at Grand Forks, North Dakota in conformity with the above section.

In accordance with the procedure set out in said section, no action will be had upon the application for a period of 60 days from October 13, 1947 within which time other persons desiring to apply for the facilities involved may do so upon the same terms and conditions as set forth in the above described contract.

(Sec. 310 (b) 48 Stat. 1086; 47 U. S. C. 310 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9410; Filed, Oct. 20, 1947; 9:10 a. m.]

[1] Section 1.321, Part I, Rules of Practice and Procedure.

[Docket No. 6651]

ALLOCATION OF FREQUENCIES TO VARIOUS CLASSES OF NON-GOVERNMENTAL SERVICES IN RADIO SPECTRUM FROM 10 KILOCYCLES TO 30,000,000 KILOCYCLES

ORDER FURTHER POSTPONING GENERAL MOBILE HEARING

At a session of the Federal Communications Commission held at its offices in Washington, D. C. on the eighth day of October 1947;

It is ordered, On the Commission's own motion, that the hearing in the above-entitled matter scheduled to be held on November 24, 1947, be postponed to December 8, 1947: *Provided, however,* That November 1, 1947 shall be the final date for filing appearances and written statements and for filing supplements or amendments to appearances and statements already filed.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9421; Filed, Oct. 20, 1947; 8:48 a. m.]

[Docket No. 7974]

RADIOTELEGRAPH SERVICE BETWEEN UNITED STATES AND FOREIGN AND OVERSEAS POINTS AND ASSIGNMENT OF FREQUENCIES FOR SUCH SERVICE

ORDER POSTPONING HEARING

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 9th day of October 1947;

It is ordered, On the Commission's own motion, that the hearing herein, now scheduled to begin October 20, 1947, is postponed to November 17, 1947, at the same time and place as heretofore designated.

It is further ordered, That Commissioner Paul A. Walker is authorized to preside at the hearings, and otherwise to

conduct the proceedings herein, and that he shall prepare an initial decision herein in accordance with the provisions of § 1.851 (b) and (c) of the Commission's rules and regulations, in lieu of the Commission's proposed decision;

It is further ordered, That any other Commissioner or Commissioners may, either in conjunction with, or in the absence of, Commissioner Walker, preside at the hearings herein;

It is further ordered, That any previous authorization of presiding Commissioners herein is cancelled.

Notice is hereby given that § 1.857 of the Commission's rules and regulations is not applicable to this proceeding.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F R. Doc. 47-9420; Filed, Oct. 20, 1947; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 313]

RECONSIGNMENT OF CELERY AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F R. 15008) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., CPT, October 8, 1947, by Simon Siegel Co., of car PFE 61540, celery, now on the Chicago Produce Terminal to G. Fava Fruit Co., Baltimore, Md. (PRR)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of this permit shall be given to the general service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 13th day of October 1947.

HOMER C. KING,
Director
Bureau of Service.

[F. R. Doc. 47-9394; Filed, Oct. 20, 1947; 8:46 a. m.]

[S. O. 396, Special Permit 314]

RECONSIGNMENT OF CELERY AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill. (Chicago Produce Terminal), October 7, 1947, by Simon Siegel Co., of car SFRD 26285, celery, now on the Chicago Produce Terminal to Vincent W Koseita, Pine Island, N. Y. (Erie)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 14th day of October 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F R. Doc. 47-9395; Filed, Oct. 20, 1947; 8:46 a. m.]

[S. O. 396, Special Permit 315]

RECONSIGNMENT OF GRAPES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill. (CPT) October 9, 1947, by Garibaldi & Cuneo, of car PFE 61433, grapes, now on the CPT to James Gagliano, Milwaukee, Wis. (CNW)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 14th day of October 1947.

HOMER C. KING,
Director
Bureau of Service.

[F. R. Doc. 47-9396; Filed, Oct. 20, 1947; 8:46 a. m.]

[S. O. 396, Special Permit 316]

RECONSIGNMENT OF POTATOES AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Chicago, Ill., October 10, 1947, by National Produce Co., of car PFE 93872, potatoes, now on the CNW to Cash Wholesale Produce Co. to Joliet, Ill. (GM&O)

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 14th day of October 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F R. Doc. 47-9397; Filed, Oct. 20, 1947; 8:46 a. m.]

[Ex Parte 166]

INCREASED FREIGHT RATES, 1947

OCTOBER 16, 1947.

The above-entitled proceeding is set for further hearing at the following times and places, before the officers named, viz:

Chicago, Illinois, November 3, 1947, 10:00 o'clock a. m., at the Hotel LaSalle, before Division Two, Chairman Aitchison, and Commissioners Mahaffie, Splawn, and Alldredge.

Montgomery, Alabama, November 17, 1947, 10:00 o'clock a. m., at the State House, before Commissioner Alldredge.

Salt Lake City, Utah, November 17, 1947, 10:00 o'clock a. m., at the Hotel Newhouse, before Chairman Aitchison.

Los Angeles, California, November 21, 1947, 10:00 o'clock a. m., at the Auditorium of the Pacific Electric Building, 6th and Main Streets, before Chairman Aitchison.

Fort Worth, Texas, November 24, 1947, 10:00 o'clock a. m., at the Texas Hotel, before Commissioner Splawn.

Boston, Massachusetts, November 24, 1947, 10:00 o'clock a. m., at room 460 of the State House, before Commissioner Mahaffie.

Portland, Oregon, November 28, 1947, 10:00 a. m., at Library Hall, Public Library, 10th and Yamhill Streets, before Chairman Aitchison.

Washington, D. C., December 8, 1947, 10:00 o'clock a. m., at the offices of the Commission, before Division Two.

All times stated are standard time in the city specified.

It is the desire of Division Two that so far as possible testimony of general, nation-wide, or interterritorial significance, be presented at the Chicago hearing. These various hearings (including the ones at Chicago and Washington) are intended for the convenience of parties having local or individual testimony. The final hearing at Washington will also serve to supplement and bring the

record down to date and for rebuttal by all parties.

Further announcement will be made as to argument before the Commission.

The Commission directs the especial attention of all parties to the special rules of procedure heretofore promulgated, and especially to the desirability of having all prepared statements to be used by witnesses (including their proposed exhibits) duplicated and distributed sufficiently in advance of the presentation of the witnesses as to enable adequate inspection of the prepared statements and exhibits. Cooperation in this respect will greatly facilitate the conduct of the case and make for a better record.

Verified statements (affidavits) Evidence in the form of verified statements (affidavits) will be received in evidence in the absence of objection as provided in the special rules of practice governing this proceeding. They should be sent to Clyde B. Aitchison, Chairman, Interstate Commerce Commission, Hotel LaSalle, Chicago, Ill., for the hearing at that point, and to the presiding Commissioner at the place of each subsequent hearing, and should be mailed in time to reach the place of hearing on the first day. One hundred and fifty (150) copies are required.

Notice of intention to produce testimony or file verified statement. All persons who desire to be heard will facilitate necessary arrangements by sending notice of their intention to appear and offer oral testimony, stating the time required, the general subject matter of their testimony, and specifying the hearing at which they will appear. All persons who intend to file verified statements will indicate the general subject matter, and the hearing to which they will send their verified statements. Such notices should be sent to the Commission at Washington, D. C., so as to arrive on or before October 30, 1947. These notices will then be published for the information of all parties.

[SEAL] W P. BARTEL,
Secretary.

[F. R. Doc. 47-9398; Filed, Oct. 20, 1947; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1625]

TEXAS UTILITIES CO. AND TEXAS POWER & LIGHT CO.

SUPPLEMENTAL ORDER RELEASING JURISDICTION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pennsylvania, on the 15th day of October A. D. 1947.

Texas Utilities Company ("Utilities"), a registered holding company subsidiary of American Power & Light Company, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, and Utilities' electric utility subsidiary, Texas Power & Light Company ("Texas") having filed a joint application-declaration, and amendments thereto, pursuant to sections 6 (a) 7 and 12 of the Public Utility Holding Company Act of 1935 and Rules U-45 and U-50 thereunder regarding (a) the issuance and sale, pursuant to the competitive bidding requirements of Rule U-50, of $8,000,000 principal amount of First Mortgage Bonds ...% Series due 1977; and (b) the contribution by Utilities to the capital of Texas of $2,000,000 in cash, which amount Texas will add to the stated value of its common stock; and

The Commission having by order dated October 1, 1947 granted and permitted to become effective said joint application-declaration, as amended, subject to the condition that the proposed issue and sale of bonds not be consummated until the results of competitive bidding pursuant to Rule U-50 had been made a matter of record in this proceeding and a further order entered by the Commission in light of the record as so completed, and subject, further, to a reservation of jurisdiction with respect to the payment of all counsel fees and expenses in connection with the proposed transactions; and

Utilities and Texas having filed a further amendment to their joint application-declaration setting forth the action taken to comply with the requirements of Rule U-50 and stating that pursuant to an invitation for competitive bids, six bids for such bonds by six groups of underwriters headed by the firms set forth below were received:

Underwriting group	Coupon rate	Price to company	Cost to company
	Per cent		
Halsey, Stuart & Co. Inc.	3	100.63	2.9631
W. C. Langley & Co.,[1] Glore, Forgan & Co.	3	100.5799	2.9697
White, Weld & Co.	3	100.51	2.9823
Drexel & Co.,[1] Hemphill, Noyes & Co.	3	100.5799	2.9910
Blyth & Co., Inc.,[1] Kidder, Peabody & Co., Smith, Barney & Co.	3⅛	102.31	3.0670
The First Boston Corp.	3⅛	102.14	3.0161

[1] Bid jointly.

Said amendment to the joint application-declaration, having contained the statement that Texas has accepted the bid of the group headed by Halsey, Stuart & Co. Inc. as set out above, and that the bonds will be offered for sale to the public at a price of 100.99% of the principal amount thereof, resulting in an underwriter's spread of 0.36% of the principal amount of said bonds; and

The Commission finding that the proposed payment of counsel fees in the amount of $8,500 to Reid & Priest, New York counsel for Utilities and Texas, $8,500 to Burford, Ryburn, Hincks & Ford, local counsel for the companies, and $7,000 to Winthrop, Stimson, Putnam & Roberts, counsel for the successful bidder for said bonds whose fee is to be paid by the successful bidder, are not unreasonable; and

The Commission having examined said amendment and having considered the record herein and finding no reason for imposing terms and conditions with respect to said matters:

It is ordered, That jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said bonds under Rule U-50 be, and the same hereby is, released, and that the amendment filed on October 15, 1947 to the joint application-declaration be, and the same hereby is, granted and permitted to become effective forthwith, subject, however, to the terms and conditions prescribed in Rule U-24.

It is further ordered, That jurisdiction heretofore reserved with respect to fees and expenses of counsel in connection with the issue and sale of said bonds, including fees payable to counsel for the successful bidders, be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-9388; Filed, Oct. 20, 1947; 9:00 a. m.]

[File No. 70-1648]

ELECTRIC BOND AND SHARE CO. AND CAROLINA POWER & LIGHT CO.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 15th day of October A. D. 1947.

Notice is hereby given that Electric Bond and Share Company ("Bond and Share") a registered holding company and its subsidiary, Carolina Power & Light Company ("Carolina") have filed a joint application and declaration pursuant to the Public Utility Holding Company Act of 1935. Applicants-declarants designate sections 6, 7, 9, 10, 12 (d) and 12 (f) of the act and Rules U-43, U-44 and U-50 as applicable to the proposed transactions.

All interested persons are referred to said joint application and declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed which are summarized as follows:

Carolina, pursuant to the provisions of its charter, proposes to offer to the holders of its outstanding common stock rights to subscribe for 90,935 additional shares of common stock at the rate of one share of such additional common stock for each 10 shares of common stock presently held. Subscription rights are to be evidenced by transferable subscription warrants which will expire on a date 20 days after the mailing of notice that such rights are available. It is further proposed that all shares which are not subscribed for plus such additional shares which may be purchased by the company in connection with stabilizing operations, be sold by means of a negotiated sale to a group of underwriters. In order to effectuate such private sale, Carolina has requested an exemption from the competitive bidding requirements of Rule U-50. The price at which such shares are to be offered to the common stockholders and the details of the

underwriting arrangement will be filed by amendment.

In connection with its proposed stabilizing operations, Carolina requests permission to acquire not more than 9,000 shares of its common stock by purchase on the New York Stock Exchange at any time during the period commencing at the opening of business immediately following the date on which the Commission's order authorizing the stabilization is issued and terminating when the initial public offering price is agreed upon between the company and underwriters. Any purchases effected will commence at a price (exclusive of commissions) not higher than the last preceding sale price of the common stock on the said exchange.

The proceeds of the issue and sale of the additional common stock will be used for the construction of new facilities and the extension and improvement of present facilities. Such issue and sale are subject to the approval of the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Bond and Share, which owns 423,408 shares (46.56%) of the outstanding common stock of Carolina, proposes either to sell the subscription rights to which it will become entitled or to exercise such rights and sell the stock thus obtained to underwriters. In the event Bond and Share is unable to make a satisfactory arrangement with the underwriters for the purchase of its rights or the sale of its stock it desires authorization to exercise such rights and hold the stock thus obtained until it disposes of all of its holdings of Carolina common stock.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said joint application and declaration and that said joint application and declaration shall not be granted or permitted to become effective except pursuant to a further order of this Commission:

It is ordered, That a hearing on said joint application and declaration pursuant to the applicable provisions of the act and the rules of the Commission be held on October 22, 1947, at 11:00 a. m., e. s. t., at the offices of the Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. On such date the Hearing Room Clerk in Room 318 will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in this proceeding shall file with the Secretary of the Commission on or before October 20, 1947, a request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Allen MacCullen or any other officer or officers of this Commission designated by it for that purpose shall preside at such hearing. The officer or officers so designated to preside at such hearing are hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Public Utilities Division having advised the Commission that it has made a preliminary examination of the joint application and declaration and that upon the basis thereof the following matters and questions are presented for consideration without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether the proposed issue and sale of common stock by Carolina is solely for the purpose of financing the business of the company and has been expressly authorized by the state commission of the state in which the company is organized and doing business.

(2) Whether the requested exemption from the competitive bidding requirements of Rule U-50 should be granted and whether any terms and conditions should be imposed in the public interest or for the protection of investors or consumers should such exemption be granted.

(3) Whether the proposed acquisition by Carolina of shares of its common stock on the New York Stock Exchange for the purpose of stabilizing the price of such stock meets the requirements of sections 9 and 10 of the act.

(4) Whether the proposed acquisition and subsequent sale by Bond and Share of rights or the common stock of Carolina, or both, meet the applicable standards of the act, particularly sections 10 and 12 (d) thereof.

(5) Whether the fees, commissions and other remunerations in connection with the proposed transactions are reasonable.

(6) Whether the accounting entries to be recorded in connection with the proposed transactions are proper and conform to standard principles of accounting.

(7) Whether it is necessary or appropriate in the public interest or for the protection of investors or consumers to impose terms and conditions with reference to the proposed transactions and, if so, what the terms and conditions should be.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Bond and Share, Carolina, the North Carolina Utilities Commission and the South Carolina Public Service Commission, and that notice of said hearing shall be given to all other persons by general release of this Commission which shall be distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935 and by publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9387; Filed, Oct. 20, 1947; 9:00 a. m.]

[File Nos. 811-316, 811-317]

EMPIRE AMERICAN SECURITIES CORP. AND SCOTTISH TYPE INVESTORS, INC.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 15th day of October A. D. 1947.

Notice is hereby given that Empire American Securities Corporation and Scottish Type Investors, Inc., have filed a joint application pursuant to section 8 (f) of the Investment Company Act of 1940 for an order of the Commission declaring that they have ceased to be investment companies within the meaning of the act.

It appears from the application that pursuant to section 59 of the General Corporation Law of the State of Delaware, the stockholders of Empire and Scottish have duly voted to merge the applicants with and into Allied International Investing Corporation in accordance with an Agreement of Merger, dated June 16, 1947, by and between Allied, Empire and Scottish; and that said merger agreement became effective July 31, 1947, when the corporate existence of Empire and Scottish ceased and their assets, liabilities, rights and immunities became those of Allied.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission in Philadelphia, Pennsylvania.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may see fit to impose, may be issued by the Commission at any time after October 27, 1947, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than October 23, 1947, at 5:30 p. m., in writing submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9389; Filed, Oct. 20, 1947; 9:00 a. m.]